

CHRISTOPHER CHIOU
Acting United States Attorney
Nevada Bar Number 14853
JIM W. FANG
Assistant United States Attorney
501 Las Vegas Blvd. South, Ste. 1100
Las Vegas, Nevada 89101
Phone: 702-388-6317
Email: jim.fang@usdoj.gov
Attorneys for the United States of America

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

EMELIO ROCHESTER,

Defendant.

Case No. 2:20-mj-00902-DJA

**ORDER to Continue the Preliminary
Hearing (Sixth Request)**

It is hereby stipulated and agreed, by and between Christopher Chiou, Acting United States Attorney, through Jim W. Fang, Assistant United States Attorney, and Daniel Hill, Esq., counsel for Defendant Emelio Rochester, that the preliminary hearing in the above-captioned matter for Barber, previously scheduled for September 13, 2021, at 4:00 p.m., be vacated and continued until a time convenient to the Court, but no earlier than October 13, 2021.

1. Federal Rule of Criminal Procedure Rule 5.1(d) provides that “[w]ith the defendant’s consent and upon a showing of good cause—taking into account the public interest in the prompt disposition of criminal cases—a magistrate judge may extend the time limits [for preliminary hearings] one or more times.” Here, the parties desire to explore the

1 potential to resolve this matter before defendant is formally charged by a criminal
2 indictment.

3 2. In that regard, the government has provided defense counsel with Rule 16
4 discovery in order to facilitate pre-indictment resolution, and the parties have been in active
5 plea negotiations. The parties have agreed to request additional time to make one final
6 attempt at resolving this case pre-indictment. The parties understand that any further
7 continuance would not be in the best interest of justice if an agreement is not reached.

8 3. This continuance is not sought for the purposes of delay, but to allow the
9 parties to reach a potential resolution before the government moves forward with further
10 prosecution.

11 4. Defendant is not in custody and agrees to the continuance.

12 5. Denial of this request could result in a miscarriage of justice, and the ends of
13 justice served by granting this request outweigh the best interest of the public and the
14 defendants in a speedy trial.

15 6. The additional time requested by this stipulation is excludable in computing
16 the time within which indictment must be filed pursuant to the Speedy Trial Act, 18 U.S.C.
17 § 3161(b), and considering the factors under 18 U.S.C. § 3161(h)(7)(A) and (B)(i) and (iv).

18 DATED this 10th day of September, 2021.

19 CHRISTOPHER CHIOU
20 Acting United States Attorney

21 s/ Jim W. Fang
JIM W. FANG
22 Assistant United States Attorney
Counsel for the United States

s/ Daniel Hill
DANIEL HILL, ESQ.
Counsel for Defendant Rochester

**UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,

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EMELIO ROCHESTER,

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FINDINGS AND ORDER

Based on the pending Stipulation between the defense and the government, and good cause appearing therefore, the Court hereby finds that:

1. The parties desire to continue the preliminary hearing to facilitate pre-indictment resolution. The government has provided defense counsel with Rule 16 discovery for that purpose, and the parties are in active plea negotiations. The parties request a continuance in order to make one final attempt at reaching a resolution pre-indictment, and understand that any further continuances would not be in the best interest of justice if an agreement is not reached. The Court finds good cause to continue the hearing one final time to allow the parties to reach a pre-indictment resolution.

2. Both counsel for defendant and counsel for the government agree to the continuance.

3. Defendant is not in custody and agrees to the continuance.

4. The continuance is not sought for the purposes of delay, but to allow the parties to reach a potential resolution before the government moves forward with further prosecution.

1 5. Denial of this request could result in a miscarriage of justice, and the ends of
2 justice served by granting this request outweigh the best interest of the public and the
3 defendants in a speedy trial.

4 6. The additional time requested by this stipulation is excludable in computing
5 the time within which indictment must be filed pursuant to the Speedy Trial Act, 18 U.S.C.
6 § 3161(b), and considering the factors under 18 U.S.C. § 3161(h)(7)(A) and (B)(i) and (iv).

7 THEREFORE, IT IS HEREBY ORDERED that the preliminary hearing in the
8 above-captioned matter currently scheduled for September 13, 2021, at 4:00 p.m. be vacated
9 and continued to October 18, 2021, at 4:00 p.m., Courtroom 3A.

10 DATED this 10th day of September, 2021.



HONORABLE DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE